

Senate Bill No. 221

Passed the Senate August 21, 2003

Secretary of the Senate

Passed the Assembly July 29, 2003

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 1029 of the Government Code, and to amend Sections 13503, 13506, and 13510.1 of, and to add Section 13510.7 to, the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

SB 221, Romero. Peace officers.

Existing law prohibits any person who has been convicted of a felony from holding office as a peace officer or being employed as a peace officer.

The bill would also disqualify any person from holding office as a peace officer or being employed as a peace officer who, after January 1, 2004, has been convicted of a crime based on a verdict or finding of guilt of a felony by the trier of fact, or upon entry of a plea of guilty or nolo contendere to a felony, as specified. The bill would further provide that a plea of guilty to a felony pursuant to a deferred entry of judgment program, as specified, would not alone disqualify a person from being a peace officer unless a judgment of guilty was entered. The bill would provide that a person who pleads guilty or nolo contendere to, or who is found guilty by the trier of fact of, an alternate felony-misdemeanor drug possession offense and successfully completes a program of probation as specified would not be disqualified to be a peace officer solely on the basis of that plea or finding if the court deems the offense to be a misdemeanor, or reduces the offense to a misdemeanor.

Existing law establishes a Commission on Peace Officer Standards and Training that has the power to, among other things, establish a certification program for peace officers and for the California Highway Patrol. Existing law grants the commission power to cancel certificates and provides that the commission must cancel certificates issued to persons convicted of a felony. Pursuant to existing law, the commission has issued regulations providing for the cancellation of certificates in various circumstances.

This bill would eliminate the commission's power to withdraw or revoke certificates. This bill would limit the commission's authority to cancel certificates to those situations in which a



certificate was obtained as the result of misrepresentation, fraud, or an administrative error. This bill would also prohibit the commission from following existing regulations for the revocation or withdrawal of certificates and from issuing any new regulations that provide for the revocation or withdrawal of certificates.

This bill would require the commission to enter a notation in the commission's training record whenever a person holding a certificate is determined to be disqualified from holding office or being employed as a peace officer on the ground that the person committed a specified offense. In addition, this bill would require the commission to notify the law enforcement agency that employs a person who is required to possess a basic certificate if the person is ineligible to be a peace officer due to the fact that the person committed a specified offense. The bill also would require that the person's certificate be made null and void for a felony offense and that the commission enter this information in the commission's training record. The bill would require the commission to reinstate a person's basic certificate in the event a conviction of the offense requiring ineligibility is subsequently overturned or reversed by the action of a court of competent jurisdiction.

The people of the State of California do enact as follows:

SECTION 1. Section 1029 of the Government Code is amended to read:

1029. (a) Except as provided in subdivision (b), (c), or (d), each of the following persons is disqualified from holding office as a peace officer or being employed as a peace officer of the state, county, city, city and county or other political subdivision, whether with or without compensation, and is disqualified from any office or employment by the state, county, city, city and county or other political subdivision, whether with or without compensation, which confers upon the holder or employee the powers and duties of a peace officer:

- (1) Any person who has been convicted of a felony.
- (2) Any person who has been convicted of any offense in any other jurisdiction which would have been a felony if committed in this state.



(3) Any person who, after January 1, 2004, has been convicted of a crime based upon a verdict or finding of guilt of a felony by the trier of fact, or upon the entry of a plea of guilty or nolo contendere to a felony. This paragraph shall apply regardless of whether, pursuant to subdivision (b) of Section 17 of the Penal Code, the court declares the offense to be a misdemeanor or the offense becomes a misdemeanor by operation of law.

(4) Any person who has been charged with a felony and adjudged by a superior court to be mentally incompetent under Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code.

(5) Any person who has been found not guilty by reason of insanity of any felony.

(6) Any person who has been determined to be a mentally disordered sex offender pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(7) Any person adjudged addicted or in danger of becoming addicted to narcotics, convicted, and committed to a state institution as provided in Section 3051 of the Welfare and Institutions Code.

(b) (1) A plea of guilty to a felony pursuant to a deferred entry of judgment program as set forth in Sections 1000 to 1000.4, inclusive, of the Penal Code shall not alone disqualify a person from being a peace officer unless a judgment of guilty is entered pursuant to Section 1000.3 of the Penal Code.

(2) A person who pleads guilty or nolo contendere to, or who is found guilty by a trier of fact of, an alternate felony-misdemeanor drug possession offense and successfully completes a program of probation pursuant to Section 1210.1 of the Penal Code shall not be disqualified from being a peace officer solely on the basis of the plea or finding if the court deems the offense to be a misdemeanor or reduces the offense to a misdemeanor.

(c) Any person who has been convicted of a felony, other than a felony punishable by death, in this state or any other state, or who has been convicted of any offense in any other state which would have been a felony, other than a felony punishable by death, if committed in this state, and who demonstrates the ability to assist persons in programs of rehabilitation may hold office and be



employed as a parole officer of the Department of Corrections or the Department of the Youth Authority, or as a probation officer in a county probation department, if he or she has been granted a full and unconditional pardon for the felony or offense of which he or she was convicted. Notwithstanding any other provision of law, the Department of Corrections or the Department of the Youth Authority, or a county probation department, may refuse to employ that person regardless of his or her qualifications.

(d) Nothing in this section shall be construed to limit or curtail the power or authority of any board of police commissioners, chief of police, sheriff, mayor, or other appointing authority to appoint, employ, or deputize any person as a peace officer in time of disaster caused by flood, fire, pestilence or similar public calamity, or to exercise any power conferred by law to summon assistance in making arrests or preventing the commission of any criminal offense.

(e) Nothing in this section shall be construed to prohibit any person from holding office or being employed as a superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, if at the time of the person's hire a prior conviction of a felony was known to the person's employer, and the class of office for which the person was hired was not declared by law to be a class prohibited to persons convicted of a felony, but as a result of a change in classification, as provided by law, the new classification would prohibit employment of a person convicted of a felony.

SEC. 2. Section 13503 of the Penal Code is amended to read:

13503. In carrying out its duties and responsibilities, the commission shall have all of the following powers:

- (a) To meet at those times and places as it may deem proper.
- (b) To employ an executive secretary and, pursuant to civil service, those clerical and technical assistants as may be necessary.
- (c) To contract with other agencies, public or private, or persons as it deems necessary, for the rendition and affording of those services, facilities, studies, and reports to the commission as will best assist it to carry out its duties and responsibilities.
- (d) To cooperate with and to secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of its duties and responsibilities, and in performing its other functions.



(e) To develop and implement programs to increase the effectiveness of law enforcement and when those programs involve training and education courses to cooperate with and secure the cooperation of state-level officers, agencies, and bodies having jurisdiction over systems of public higher education in continuing the development of college-level training and education programs.

(f) To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government.

(g) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it.

(h) The commission shall not have the authority to adopt or carry out a regulation that authorizes the withdrawal or revocation of a certificate previously issued to a peace officer pursuant to this chapter.

(i) Except as specifically provided by law, the commission shall not have the authority to cancel a certificate previously issued to a peace officer pursuant to this chapter.

SEC. 3. Section 13506 of the Penal Code is amended to read:

13506. The commission may adopt those regulations as are necessary to carry out the purposes of this chapter. The commission shall not have the authority to adopt or carry out a regulation that authorizes the withdrawal or revocation of a certificate previously issued to a peace officer pursuant to this chapter. Except as specifically provided by law, the commission shall not have the authority to adopt regulations providing for the cancellation of a certificate.

SEC. 4. Section 13510.1 of the Penal Code is amended to read:

13510.1. (a) The commission shall establish a certification program for peace officers specified in Sections 13510 and 13522 and for the California Highway Patrol. Certificates of the commission established pursuant to this section shall be considered professional certificates.

(b) Basic, intermediate, advanced, supervisory, management, and executive certificates shall be established for the purpose of fostering professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officer members of city police



departments, county sheriffs' departments, districts, university and state university and college departments, or by the California Highway Patrol.

(c) (1) Certificates shall be awarded on the basis of a combination of training, education, experience, and other prerequisites, as determined by the commission.

(2) In determining whether an applicant for certification has the requisite education, the commission shall recognize as acceptable college education only the following:

(A) Education provided by a community college, college, or university which has been accredited by the department of education of the state in which the community college, college, or university is located or by a recognized national or regional accrediting body.

(B) Until January 1, 1998, educational courses or degrees provided by a nonaccredited but state-approved college that offers programs exclusively in criminal justice.

(d) Persons who are determined by the commission to be eligible peace officers may make application for the certificates, provided they are employed by an agency which participates in the Peace Officer Standards and Training (POST) program.

(e) The commission shall have the authority to cancel any certificate that has been obtained through misrepresentation or fraud or that was issued as the result of an administrative error on the part of the commission or the employing agency.

SEC. 5. Section 13510.7 is added to the Penal Code, to read:

13510.7. (a) Whenever any person holding a certificate issued pursuant to Section 13510.1 is determined to be disqualified from holding office or being employed as a peace officer for the reasons set forth in subdivision (a) of Section 1029 of the Government Code, and the person has exhausted or waived his or her appeal, pursuant to Section 1237 or Section 1237.5, from the conviction or finding that forms the basis for or accompanies his or her disqualification, the commission shall cause the following to be entered in the commission's training record for that person: "THIS PERSON IS INELIGIBLE TO BE A PEACE OFFICER IN CALIFORNIA PURSUANT TO GOVERNMENT CODE SECTION 1029(a)."

(b) Whenever any person who is required to possess a basic certificate issued by the commission pursuant to Section 832.4 or



who is subject to subdivision (a) of Section 13510.1 is determined to be disqualified from holding office or being employed as a peace officer for the reasons set forth in subdivision (a) of Section 1029 of the Government Code, the commission shall notify the law enforcement agency that employs the person that the person is ineligible to be a peace officer in California pursuant to subdivision (a) of Section 1029 of the Government Code. The person's basic certificate shall be null and void and the commission shall enter this information in the commission's training record for that person.

(c) After the time for filing a notice of appeal has passed, or where the remittitur has been issued following the filing of a notice of appeal, in a criminal case establishing the ineligibility of a person to be a peace officer as specified in subdivision (c), the commission shall reinstate a person's basic certificate in the event a conviction of the offense requiring or accompanying ineligibility is subsequently overturned or reversed by the action of a court of competent jurisdiction.

(d) Upon request of a person who is eligible for reinstatement pursuant to paragraph (2) of subdivision (b) of Section 1029 of the Government Code because of successful completion of probation pursuant to Section 1201.1 of the Penal Code, the court having jurisdiction over the matter in which probation was ordered pursuant to Section 1201.1 shall notify the commission of the successful completion and the misdemeanor nature of the person's conviction. The commission shall thereupon reinstate the person's eligibility. Reinstatement of eligibility in the person's training record shall not create a mandate that the person be hired by any agency.



Approved _____, 2003

Governor

